



**basic education**

Department:  
Basic Education  
REPUBLIC OF SOUTH AFRICA

**REPORT OF THE MINISTERIAL TASK TEAM APPOINTED BY  
MINISTER ANGIE MOTSHEKGA TO INVESTIGATE  
ALLEGATIONS INTO THE SELLING OF POSTS OF EDUCATORS  
BY MEMBERS OF TEACHERS UNIONS AND DEPARTMENTAL  
OFFICIALS IN PROVINCIAL EDUCATION DEPARTMENTS**

***Final Report***

**18 MAY 2016**

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## ACRONYMS

<b>ANC</b>	African National Congress
<b>CNE</b>	Christian National Education
<b>COSATU</b>	Congress of South African Trade Unions
<b>DBE</b>	Department of Basic Education
<b>DHE</b>	Department of Higher Education
<b>DoE</b>	Department of Education
<b>DPSA</b>	Department of Public Service and Administration
<b>EEA</b>	Employment of Educator's Act
<b>ELRC</b>	Education Labour Relations Council
<b>FEDSAS</b>	Federation of Association of Governing Bodies
<b>HOD</b>	Head of Department
<b>HR</b>	Human Resource
<b>HRM</b>	Human Resource Management
<b>ISPFTED</b>	Integrated Strategic Planning Framework for Teacher Education Development
<b>MEC</b>	Members of the Executive Council
<b>MTT</b>	Ministerial Task Team
<b>NAPTOSA</b>	National Professional Teachers' Union of South Africa
<b>NASGB</b>	National Association of School Governing Bodies
<b>NATU</b>	National Teachers' Union
<b>NEHAWU</b>	National Education Health and Allied Workers' Union
<b>NWDoE</b>	North West Department of Education
<b>PAM</b>	Performance Administrative Measures
<b>PTSA</b>	Parent-Teacher Student
<b>PED</b>	Provincial Education Department
<b>PEU</b>	Professional Educators Union
<b>SACE</b>	South Africa Council for Educators
<b>SADTU</b>	South Africa Teacher' Union
<b>SAOU</b>	Suid Afrikaanse Onderwysersunie
<b>SASA</b>	South African Schools Act
<b>SGB</b>	School Governing Body

<b>SMS</b>	Senior Management Staff
<b>SMT</b>	School Management Team
<b>WCED</b>	Western Cape Education Department

**The Honourable Minister of Basic Education, Mrs Angie Motshekga**

**The Ministerial Task Team has pleasure in submitting its report on the investigation of allegations into the selling of posts of educators by some members of teachers unions and departmental officials in the various provincial education departments.**

**Name**

**Signature**

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Mr Siyabonga Msimang

Mr Paul Nel

Ms Amelia Moleta

Mr Gerhard Scholtz

Advocate Tommy Prins

## **ACKNOWLEDGEMENTS**

The following institutions and sectors made contributions to the investigation for which the committee is grateful:

Members of Executive Councils (MECs)

Provincial Heads of Education Departments (HODs)

Senior Provincial Educational Officials for Labour Relations and Human Resources

District Directors

Several independent educational experts and administrators

National Professional Teachers' Organisation of South Africa (NAPTOSA)

Professional Educators Union (PEU)

South African Democratic Teachers Union (SADTU)

South African Teachers Union (SAOU)

Federation of governing Bodies of South Africa (FEDSAS)

National Association of School Governing Bodies (NASGB)

Federation of governing Bodies of South Africa (FEDSAS)



## EXECUTIVE SUMMARY

Following allegations in the media that some members of teacher unions and department officials were involved in illegal activities involving the selling of educator posts, the Minister of Basic Education, Mrs Angie Motshekga, held meetings with various stakeholders including Teacher Unions as well as the Associations of School Governing Bodies. Consensus was reached on the need to investigate speedily the allegations and it was thus agreed that a Ministerial Task Team instead of a Commission of Inquiry be established by the Minister to probe these allegations. The basis of the investigation by the Task Team would be to inquire into and report to the Minister on allegations reported in the media regarding the alleged irregular appointment of educators at schools and the role played by any Union or by officials of provincial education departments in these alleged irregular appointments.

To provide context we refer to an article published in the *City Press* on 27<sup>th</sup> April 2014 outlining the alleged racket to work as follows:

- A teacher who wants to land a promotion identifies the position he/she wants.
- Typically, this is a job that they know the incumbent will soon be leaving, either because they are retiring or because they are resigning from the department.
- That teacher then approaches a local Union official whom he/she knows to be involved in selling positions for cash, and hands over a minimum of R30 000.
- The Union official then meets with members of the school governing body and department officials to rig the process.
- If the post is already filled, the school governing body is used to agitate against the incumbent individual if necessary to force them out of the post.
- The school governing body then recommends the teacher who paid for that job to the selection panel.
- The selection panel, which contains paid-off Departmental officials, then recommends that person for appointment and this is ratified by the governing body and forwarded to the HoD for appointment.
- The teacher gets the job.

Furthermore, in an article published in the *City Press* on 2 May 2014, it is further alleged that “Crooked SADTU officials are selling not only principals’ posts, but are manipulating the education

system across provinces to control teachers' appointments, retirement packages and transfers in return for bribes of as little as R6 500".

The Minister appointed an eight member task team chaired by an independent educator with the following terms of reference: To enquire into and report to the Minister of Basic Education on:

1. All facets of the allegations reported in the media in regard to the alleged irregular appointments of educators at schools; and
2. The role played in these alleged irregular appointments, whether directly or indirectly and whether by act or omission, by-
  - (i) Any union/or any member of or members and/or any official or officials of any such a union; and /or
  - (ii) Any official or officials of any provincial education department; and/or
  - (iii) Any school governing body and/or any association of school governing bodies and/or any member or members of such an association; and/or
  - (iv) Any organisation, whether an education stakeholder or not; and/or
  - (v) Any individual or individuals, and to make recommendations to the Minister on how these allegations should be addressed; and
3. The challenges pertaining to the advertising and the filling of posts and on any possible legislative changes that may be required to improve the existing legislative provisions relating to the advertising and the filling of posts.
4. To advise the Minister on the appointment and placement policies, applicable to educators and other members of staff at school, in existence in the National Department of Basic Education and in provincial education departments, the implementation of such policies and whether such policies require review and/or amendment.
5. To refer any activities identified during, and flowing from, its investigation
  - (i) Which indicate that criminal offences have been committed to the South African Police Service; and
  - (ii) Which indicate that disciplinary action should be instituted against any official or officials of the Department of Basic Education or of any provincial education department to the appropriate authority; and
  - (iii) To provide the Minister with the interim report in this regard.
6. To conclude its investigation within 120 days from the date of its appointment or within such an extended period as the Minister may determine at the request of the Task Team.
7. To advise and to request the Minister, during the course of its investigation, to extend its terms of reference, should circumstances so require.

## 1. CONTEXTUAL FACTORS

The following factors were identified at the outset, by the Ministerial Task Team (MTT) as potentially affecting the investigation and the nature of the findings:

- The allegations pointed to possible widespread corrupt practices involving the irregular appointment of educators across provinces, districts and schools and the task was therefore seen as vast and complex;
- An additional layer of complexity to the investigation which would affect the collection of evidence is the prevailing culture of secrecy among teachers and officials and fears about safety and confidentiality;
- Most of the initial media allegations focussed on the dominant union, however given its brief, the MTT had to investigate the role of all parties in the appointment process and not only one union;
- Legitimate appointment processes which are contested by disgruntled individuals or entities could lead to false accusations of impropriety;
- The initial expectation was that the inquiry would be done by a Judicial Commission of Inquiry and questions have been raised about the efficacy of the Task Team approach. However, Teacher Unions asked the Minister specifically for a Task Team investigation.<sup>1</sup>

## 2. COMPOSITION OF THE TASK TEAM

The Ministerial Task Team as stated in Government Notice No. 848 of 31 October 2014, comprised the following members:

- (i) The Chairperson, Dr John Volmink: Educationist
- (ii) Mr Michael Gardiner: Educationist
- (iii) Mr Siyabonga Msimang: Department Public Service and Administration (DPSA)
- (iv) Mr Paul Nel: Department of Justice and Constitutional Development (DoJ)
- (v) Ms Amelia Moleta: Department of Justice and Constitutional Development (DoJ)
- (vi) Mr Gerhard Scholtz: Deloitte

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<sup>1</sup> The Minister of Basic Education did not deem it necessary to confer the powers contained in the Commissions Act, 1947 (Act No. 8 of 1947), upon the Task Team to probe the allegations of the selling of posts of educators by members of some teacher unions and departmental officials in the various provincial education departments. The abovementioned Act applies only to a (judicial) commission of enquiry appointed by the President in terms of section 84(2)(f) of the Constitution. The Minister therefore decided not to approach the President to appoint a commission of enquiry. Instead, the Minister appointed the Task Team to undertake the investigation while, at the same time, relying on all relevant stakeholders to cooperate with the Task Team to conclude its terms of reference as contained in Government Notice No. 848 of 31 October 2014, and to make recommendations that are just and fair.

(vii) Advocate Tommy Prins: Deloitte.

The DBE provided logistical, conceptual and secretarial support in the persons of:

- Mr Chris Leukes: Chief Director Legal Services
- Ms M Mogale: Assistant Director: Education Labour Relations and Conditions of Services
- Mr AW Kutumela: Director: Education Labour Relations and Conditions of Services.

### **3. APPOINTMENT OF SERVICE PROVIDERS AS MEMBERS OF THE TASK TEAM**

Because of the sensitive nature of the matter it was found appropriate to appoint a service provider to undertake forensic investigation into possible irregular or criminal activities and to report to the Task Team on these investigations. The contracted service provider had to be an Audit firm that had expertise in both auditing as well as HR matters within the government sector. After due process, Deloitte was appointed as the service provider.

Due to the volume of leads stemming from different provinces, and in order to enable the Task Team to cover vast areas, especially in KZN within the strict time frames, the Chairperson requested the representative from the Department of Justice and Correctional Service on the Task team, Mr Paul Nel, to provide a team of investigators who would augment the forensic investigation capacity of the service provider.

The team from the Department of Justice and Constitutional Development comprised of the following three (3) investigators to conduct the field work:

- Mr James Ndlovu: Deputy Director Forensic Auditor
- Mr Amos Moeng: Forensic Investigator; and
- Mr Charles Monye: Senior Forensic Auditor.

This team of investigators was later augmented by three other investigators from Department of Justice and Constitutional Development:

- Malefetsane Mofokeng

- Monyadiwe Mabusela
- Vutshilo Meregí.

#### **4. METHODOLOGY OF THE TASK TEAM**

- i. The Ministerial Task Team commenced its duties in September 2014 by outlining and defining its terms of reference to the members.
- ii. In order to respond to clause two (2) i-vi of the terms of reference, the Task Team interviewed the Heads of Department (HODs) in Education, Members of Executive Council (MEC) for Education in most provinces, District Managers, Labour Relations officials and Human Resource Managers.
- iii. The first set of interviews took place in KwaZulu-Natal followed by Eastern Cape, Mpumalanga, North West, Gauteng, Western Cape, Limpopo, Northern Cape and Free-State provinces. A number of provinces were visited on more than one occasion by the MTT.
- iv. The interviews of the education officials were followed by the national and provincial Teacher Union's leaders. The following Unions were interviewed: National Professional Teachers' Organisation of South Africa (NAPTOSA), Professional Educators' Union (PEU), South African Democratic Teachers' Union (SADTU) and Suid Afrikaanse Onderwysers Unie (SAOU). The President and Executive Director of the National Teachers' Union (NATU) met with MTT for one meeting. They made some suggestions about the approach and requested that they be provided with the MTT's proposed approach in writing as a pre-condition for their participation. This was subsequently provided by the MTT but NATU refused to participate further in the investigation, either at a national or provincial level, despite numerous written and telephonic invitations to do so.
- v. The MTT met with bodies such as South African Council of Educators (SACE), the Education Labour Relations Council (ELRC) and the School Governing Body Associations such as the Federation of Association of Governing Bodies (FEDSAS), National Association of School Governing Bodies (NASGB) and the Governing Body Foundation (GBF).
- vi. Governing Bodies such as the Governor's Alliance (GA), South African National Association for Special Education (SENASE), United Front for School Governing

Bodies (UF4SGBs) and the National Congress of School Governing Body (NCSGB) were invited but did not honour the invitations despite having confirmed their availability. One turned down the invitation.

- vii. The Task Team also heard testimonies from a number of aggrieved individuals and those who were allegedly implicated in the selling of teacher's posts.
- viii. For the purposes of strengthening the education system, the Task Team extended its scope to interview individual educational experts and academics such as Professors Stu Woolman, Prof Crain Soudien, Prof Brian Levy, Dr Eddie Webster, Yusuf Gabhru (former MEC Education, W Cape), Dr Nick Taylor, Clive Roos and Alan Clarke. Also consulted were Prof Salim Vally (Director of CERT at UJ) as well as Prof D Irvine and the Principal of Norman Henshilwood High School, David Millar.
- ix. Meetings were held to establish the validity of the media allegations. To this end the Chairperson and the forensic investigator from Deloitte further interviewed the City Press journalists who revealed further details of the allegations.
- x. When the Task Team visited the Free-State province on 29 May 2015, the Superintendent-General: Education, Mr RS Malope invited the media with an aim of alerting educators and stakeholders in education of the work of the Ministerial Task Team.
- xi. Due to the influx of the leads and the investigations thereof, the Task Team requested an extension of the time-frame until the end of July 2015 and this was granted by the Minister.
- xii. Documentary analysis and individual and group interviews (face-to-face and telephonic), were the primary methods employed by the Task Team.
- xiii. Relevant policy documents were studied and analysed to identify possible gaps and to determine how the system of appointment of educators can be strengthened.
- xiv. The data collected through the various interviews conducted were collated and find voice in this Report. Where more than one view is expressed on a matter we have endeavoured to allow the data to speak. Transcripts and notes of all interview and consultations were recorded and analysed-see Chapter 4 and Addenda I and II.
- xv. The basic attitude of the MTT members was that their task was to ascertain facts and other information towards understanding the circumstances in which the recruitment and appointment of educators was taking place and to make

recommendations to the Minister based on those findings. It has not been the purpose of the MTT to apportion blame or to indict any persons or organisations. However, clear indications of wrongdoing have been pursued.

In summary: the Ministerial Task Team used media allegations about the buying and selling of posts as a focus for discussions with District Managers and Teacher unions in each Province, asking them for their responses to general and specific instances which the *City Press* and other sources had provided. Individual allegations were followed up, individuals interviewed, and follow-up meetings were held with informants. Then the forensic members of the Task Team, drawn from Deloitte as well as the Department of Justice, investigated those instances which are contained in this Report. The Task Team conducted an online search to identify media articles related to its mandate. A spreadsheet and list containing representative selection media allegations is included under Addendum IV.

## **5. TIME FRAMES**

The Task Team commenced its work at the end of September 2014 and was initially given 120 days to complete its work. However, given the complexity of the investigation the timeframe was extended by the Minister at the request of the MTT until the end of December 2015. The Task Team carried out the following sequence of activities:

- Determine and define the investigative questions
- Select the cases and determine data gathering and investigative techniques
- Prepare to collect the information and forensic evidence
- Evaluate and analyse the evidence
- Prepare and finalise the report by the end of February 2016.

## **6. FINDINGS AND RECOMMENDATIONS**

The findings and recommendations made by the Ministerial Task Team on specific cases investigated are provided in summary form in Chapter 3 of this Report with a full narrative report in Addendum V. The recommendations made in chapter 3 and Addendum V are different from the Task Team recommendations to the Minister as in Chapter 6. These

forensic findings are divided into the various provincial investigations and include both the investigations based on media allegations as well as other investigations carried out as required by the Terms of Reference of the Task Team.

When reading this report it must be kept in mind that it contains a number of factual findings made by the Ministerial Task Team. The Report also contains various recommendations that are based on these findings. However, this does not amount to conclusions in matters of law. Such conclusions may be only drawn by the relevant authorities who have the necessary competency in law to draw such conclusions. We have however highlighted certain acts which in our view may amount to criminal misconduct. Where such instances have been identified, we recommend that the matter be further investigated by the relevant law enforcement authorities to establish whether grounds for disciplinary action or prosecution exist.

### **6.1 Overview of Findings from the Forensic Investigation into Specific Cases**

As anticipated many disgruntled individuals saw an opportunity to use the investigation to voice their grievances not always on factual grounds. Of the approximately 120 matters that were brought to our attention, we found after initial investigation, that several of the allegations were unfounded, based on rumour, malice, or hearsay. Furthermore in a variety of the cases the pervasive culture of fear and concerns about safety negatively impacted on the co-operation of the potential witnesses, resulting in them being reluctant or unwilling to commit themselves to statements/affidavits to assist the Task Team in its investigation. These challenges obviously resulted in a situation where no further steps could be taken or contemplated. In these cases we had no choice but to regard them as finalised. In the end 81 cases were investigated some of which were previously the subject of other investigations.

The brief of the MTT was to enquire into all facets of the allegations reported in the media in regard to irregular appointments of educators. The MTT soon became aware that there are many forms of irregular appointments. In many ways the cases reported here constitute only an indicative sample of irregularities but they nevertheless point to widespread practices of improper and unfair influence affecting the outcomes of the appointment of educators. In only a minority of cases are there numerous claims of money being paid to influence the outcome but there are claims and findings of improper influence of many different kinds.



The MTT was also asked to investigate and report on the role played in these irregular appointments, whether directly or indirectly by any union official or union member, any school governing body and/or association of school governing bodies, or any official of any provincial education department or indeed any individual or organization whether an education stakeholder or not. Some cases suggest that there is collusion within the line of command, since the people who seek to influence can only exercise that influence in collusion with individuals who fulfil different roles in the process of selection and appointment. In some cases, there appears to be collusion between union officials and district managers, and sometimes with provincial HR officials leading to a system of patronage. There is a clear basis in such cases for further investigation by a competent authority.

The current process for selecting candidates for appointment in the Education sector is riddled with inconsistencies. As a result, the process is subject to litigation at all levels. There is a need to review this process so as to align it to general Human Resource Management principles which are applied in other sectors of the public service. In the Education sector, non-professional bodies (such as School Governing Bodies) are tasked with the recruitment and selection of professionals. This could undermine the credibility of the process. In addition, dysfunctional SGBs add doubt about the validity of staff selection.

Given its historical legacy policy and practice, the education sector has features that are different from other public service sectors.

All sectors (Health & Social Work, Police and the General Public Service) with the exception of Education, follow similar practices when it comes to the recruitment of staff. In all but this one sector the processes acknowledge the critical nature of acquiring competent professionals and thus they use special tools, processes to give credibility and validity to the process.

Another inconsistency in the appointment process is the weaknesses within some Districts. Where Districts work strictly according to regulated procedures and where their managerial and administrative staff members are persistent and consistent in carrying out their duties

in accordance with a coherent system, the Teacher Unions in those areas are held in check and procedures and decisions are led by the Department. Two examples of this are to be found in the Northern Cape and the Free State. Where there is a balance of power between SADTU and other Unions, such as in the Western Cape, neither Union can behave as SADTU does in North West, Eastern Cape, KZN or Limpopo. So the Department of Education is effectively in control of education of one-third of South Africa's provinces.

In other words, where authority is weak, inefficient and dilatory, teacher unions Teacher Unions move into the available spaces and determine policies, priorities and appointments achieving undue influence over matters which primarily should be the responsibility of the Department. Weak authorities, aggressive Unions, compliant principals and teachers eager to benefit from Union membership and advancement are a combination of factors that defeat the achievement of quality education by attacking the values of professionalism.

Of the 81 cases that were investigated, 38 cases provided grounds for either reasonable suspicion requiring further investigation or point directly to wrongdoing amounting to criminal conduct. (Reasonable suspicion exists when there are objective grounds or empirical facts that form the basis for the suspicion as opposed to mere conjecture.)

In order to make these judgements the MTT was guided by the Prevention and Combating of Corrupt Activities Act 12 of 2004. The general offence of **corruption** is defined in section 3 of the Act as: *the giving or accepting of any gratification, in order to act in an improper exercise or performance of a power or a duty.*

Furthermore **gratification** is defined by the Act (section 1) *to include any valuable consideration or benefit of any kind, including: money, property, office or honour, employment, service or favour, vote or abstention from voting, forbearance, release from obligation, etc.*

In particular, the Act draws attention to offences of receiving or offering of unauthorised gratification within an employment relationship. It identifies any person as guilty of the offence of receiving or offering an unauthorised gratification:

- (a) *who is party to an employment relationship and who, directly or indirectly , accepts or agrees or offers to accept from any other person any unauthorised gratification, whether for the benefit of that person or for the benefit of another person; or*
- (b) *who, directly or indirectly, gives or agrees or offers to give to any person who is party to an employment relationship any unauthorised gratification, whether for the benefit of the party or for the benefit of another person.*

The cases reported to the panel came from 6 provinces and as can be seen from Table 1, the number of cases is generally in proportion to number of schools in province. The exception is the NW province which accounts for 19.8% of all cases investigated even though the province only accounts for 6.4% of all the schools in the country.

**Table 1: Cases Investigated by Forensic Team**

PROVINCE	NO. OF SCHOOLS IN PROVINCE AS % OF NATIONAL	NO. OF CASES FINALISED	FURTHER INVESTIGATION NO. OF CASES	WRONGDOING NO. OF CASES	TOTAL NO.	% OF ALL CASES INVESTIGATED
Eastern Cape	23	11	3	1	15	18.5
Gauteng	8.5	1	2	1	4	4.9
KwaZulu-Natal	24.6	7	8	4	19	23.5
Limpopo	16.3	19	1	0	20	24.7
Mpumalanga	7.3	4	0	1	5	6.1
North West	6.4	7	4	7	18	19.8
<b>TOTAL</b>	<b>86.1</b>	<b>43</b>	<b>22</b>	<b>16</b>	<b>81</b>	<b>100</b>

## **6.2 Legal Obligation to Report Corrupt Activities and to take Action against Wrongdoers**

There have been various allegations that the findings of this Report would be ‘swept under the carpet’ or that no action would be taken against individuals implicated. The Task Team is of the view that by showing firm resolve to deal with corruption encountered in the education sector, the profession may be saved from further decay. If left unchecked it can and will have extremely serious ramifications for the quality of education of the future leaders of our country. It is also a real possibility that once it is realised that the issues are being taken seriously, other potential witnesses may be encouraged to come forward and expose further instances of these practices which have been plaguing the appointment process at various levels for years. Positive action will provide assurance to those who were prepared to come forward that they can expect support from the Department.

In certain instances, however, the MTT encountered witnesses who, at great personal risk, were prepared to speak out with a view to exposing unfairness and patently spurious appointments or practices. These individuals and the public as a whole have every right to expect that appropriate action would be taken based on these findings. The MTT is of the view that, in terms of section 34 of the Prevention and Combating of Corrupt Activities Act, a legal obligation arises to report such matters to the SAPS for further investigation and possible prosecution. It is thus recommended:

**RECOMMENDATION 1:** *That the illegal action by educators identified by the MTT be reported to SAPS for further action and that the Minister engages her counterpart in the police to dedicate resources to this category of cases to ensure fair and expeditious resolution.*

When the claims were made in the City Press in April 2014, the NWDOE appointed a forensic company to investigate the claim that SADTU had influenced the appointment of senior officials in the provincial department. The report, dated 15 August 2011, was made available to the MTT. Further investigation by the MTT indicates that in 9 cases investigated by the forensic investigative company, there was no evidence to support the allegations in 2 cases. However in 6 cases SADTU officials or representatives exerted improper influence; however is no evidence of money being involved. In one case, a senior district official acted improperly in support of the promotion of a friend. In none of the cases was action taken in respect of the findings. This is a clear violation terms of section 34 of the Prevention and Combating of Corrupt Activities Act, and it is therefore recommended:

**RECOMMENDATION 2:** *That disciplinary action be taken against those officials who had the responsibility to check acts of corruption but failed to do so.*

Following claims made in *City Press* in May 2014, The GDE acted promptly and appointed a firm of attorneys to investigate the claims of improper influence at school level. The detailed report included information from both written and verbal statements and concluded, *inter alia*, that posts are being sold for cash, that the parties operate in networks, and that there is a climate of fear that keeps people from exposing these

practices. The GDE then moved to take disciplinary action, but the majority of witnesses did not wish to give signed statements.

This outcome is unacceptable as in this case there is evidence that a network exists that is selling posts for cash. Steps need to be taken to support the individuals who were willing to take the risk of speaking. This requires further investigation by a competent authority.

It is not acceptable that a teacher who is courageous enough to report alleged corrupt acts was told must be told to go to her local police station. This cannot be acceptable. In several cases where teachers and other informants have acted with enormous courage to report gross abuse no action has been taken.

It is therefore recommended:

**RECOMMENDATION 3:** *That action be taken quickly to protect whistle-blowers. It is recommended that the Education Department establish a dedicated unit to receive complaints about the selling of posts and to direct such reports to competent authorities and follow up those reports.*

### **6.3 Recommendations for strengthening the education system.**

Data submitted to the MTT indicate that Union influence often exceeds the regulatory bounds, especially where administrative action is weak. The best remedy for this is that administrative processes should be rigorously and timeously followed.

In terms of Employment of Educators Act, the Head of Department is the employer of Educators and this delegated authority comes with responsibility and accountability to relevant government structures like the MEC, Minister, Legislature and Parliament. The current structure, namely the SGBs, that is empowered to appoint educators is not accountable to any of these structures and therefore it is important to review the current process.

The HOD should then be able to delegate some of the responsibilities to Districts with specific conditions attached in order to maintain a certain level of control. Since there is nowhere in any provision in the Education legislation, where SGBs are required to account for their crucial role in the recruitment of Educators, this creates problems when officials are required to account for outcomes of processes where they are supposed to act only as resources and not decision makers.

To further strengthen the DBE, the roles, responsibilities and formal relations between Head Office, the Districts and Circuits should be mapped out explicitly to ensure a functional HRM value chain. Such a process should include mechanisms for the creation of selection panels which have authority and which are accountable as a measure to eliminate corruption in the recruitment process. Delegation of functions to Districts and Circuits should be clear and unambiguous.

It is therefore recommended:

**RECOMMENDATION 4:** *That the Department of Basic Education regain control of administering the education system in all Provinces so that clear distinctions are established between the roles and functions of the DBE and the concerns of Teacher Unions.*

**RECOMMENDATION 5:** *That the Minister requires all Provinces to complete and implement their delegations frameworks in line with the Cabinet approved 2013 Public Administrations delegations framework and that the Minister adjusts the Education sector legislation accordingly.*

#### **6.4 Recommendations for the selection and appointment of educators.**

Education officials and other stakeholders in nearly all the provinces visited, cited flaws in the process of the recruitment of educators. This process is the only one in the public service that does not follow the standard recruitment principles. The RSA Government Human Resource Management (HRM) is de-centralised and as a result Executive Authorities and specialised sectors can determine their own HRM practices within the norms and standards set by the Minister for Public Service and Administration.

This flexibility of practice has created challenges in trying to standardise HRM practices within the Public Service.

It should be borne in mind that SGBs were established to ensure community participation in schools, and so changes to the processes of appointments should not remove the capacity of parents to participate in choices that affect their lives and those of their children.

The Task Team therefore sees *no need to remove the process of selecting PL1 educators from SGBs*. Furthermore the instances of improper influence reported to the Task Team are levelled at Union observers, tricks and ploys by applicants, and dubious behaviour by Circuit officials and those in the offices of District Managers.

However, although the Task team does not believe that removal from SGBs of powers to recommend candidates for promotion posts only will solve the larger problems of corruption and undue influence in the making of appointments, it nevertheless recognises that promotion posts are heavily contested owing to their significance for personal income, status and influence. The integrity of this process of selection and appointment needs to be carefully protected. It is imperative that positions of school management should be subjected to selection processes which ensure that competent and qualified candidates are appointed.

The MTT therefore recommends:

**RECOMMENDATION 6:** *That the powers of School Governing Bodies to make recommendations for the appointment of post level 2 and above be taken away and that the South African Schools Act and the Employment of Educators Act be amended to reflect this.*

The appointment process including advertising, interviewing of candidates and appointments could be conducted by panels with at least one professional and independent person who is not from the school community. The governing body should not play any role in the appointment process other than an advisory role.

The MTT also considered the appointment process for principals. Since it is the case that principals are key to shaping and strengthening the culture and ethos of our schools. It is recommended that in the case of school principals:

**RECOMMENDATION 7:** *Principals should be selected by means of panels which have the resources to evaluate the competence and suitability of the candidates for their leadership, management as well as their academic, experiential and professional abilities. The panels should include educators of suitable rank and experience. The pre-interviewing testing of candidates should occur and the results should be available to the panel members. The interviewing panels should be convened by the District Managers and a Departmental representative should be present as a suitably prepared Resources Person, having, for example, full details of the schools for which the interviews are being held.*

**RECOMMENDATION 8:** *It should not be possible for a person to be promoted to principal from a post-level 1 position. Insofar as this happens at present, regulations should prohibit it.*

#### **6.5 Recommendations on the Role of the Unions and their impact on the appointment process**

Despite disclaimers by Teacher Unions that their representatives at selection panels are mere observers, it has been made clear to the MTT that they frequently play active and interventionist roles. This is not acceptable practice. The MTT supports Union presence at all selection panel meetings but under strict conditions.

**RECOMMENDATION 9:** *That the observer status of Unions be renegotiated with respect to the recruitment process.*

Senior management (SMS) membership of trade unions presents the biggest problem in most provinces. It interferes with objectivity when it comes to their recommending candidates for appointment. It should be noted that SMS members in the public service are not covered by collective agreements because they represent the Employer as policy



implementers at the bargaining council (e.g., ELRC) leading to a conflict of interest if they belong to and are active in a labour union. The deployment of officials to the Department from Unions weakens the Department because those so deployed often struggle to demonstrate that they are able to balance the complexity of competing loyalties and demands.

Yet when questioned, officials and senior educators claim that they can distinguish between their obligations to the general public and their loyalty to their Union or political party. This becomes problematic when they occupy high positions in the Union and/or the party. Evidence received by the Task Team calls into question such glib distinctions.

It is therefore recommended:

**RECOMMENDATION 10:** *That both school- and office-based educators cease to be office-bearers of political parties and that educators in management posts (including school principals) be prohibited from occupying leadership positions in Teacher unions.*

The MTT encourages the formation of occupational Unions for office-based educators. These Unions should address the interests and concerns of those who are no longer practising teachers. Models of unions from universities and civil service sectors might be investigated so as to inform the kind of professional union which the MTT has in mind.

**RECOMMENDATION 11:** *That it seems desirable that separate and distinct Unions be established for office-based educators.*

Data submitted to the Task Team suggests that cadre deployment by Unions has weakened the education system. It has been alleged, for example, that SADTU determines who and for how long HoDs in many provinces stay in office, and that it deploys cadres into levels of provincial departments regardless of their qualifications. However, SADTU is not alone in exercising cadre deployment. Such domination and influence has been made possible, it was submitted, by the feeble and dilatory conditions of Districts and Circuits, permitting Unions

to move into areas in which they have no business. In the view of the Task team, this amounts to the exercise of undue influence.

If 'undue influence' (a polite name for corruption) is a result of cadre deployment, then cadre deployment is likely to lead to corruption. It is the impression of the Task Team that such corruption is endemic to greater and lesser degrees in the entire education system and that as a first move to cleanse the system, cadre deployment should not be permitted.

Reading Recommendations 4, 5 and 11 together, it is therefore recommended:

**RECOMMENDATION 12:** *That measures be put in place to ensure that the practice of cadre deployment into DBE offices and schools ceases entirely.*

A further concern in the supply value chain in the appointment of educators is the roles played by District and Circuit officers and the professional quality of District and Circuit staff. The roles that Unions play vary from Province to Province and from District to District. However, in most Districts SADTU is a potent and often decisive presence. Furthermore, if it and the other Unions were to withdraw from their current dominance, the present education system in a number of Provinces would probably collapse owing to the weaknesses of Departmental management. In these cases it is the Teacher Unions in effect which are holding the system together.

It is therefore recommended that:

**RECOMMENDATION 13:** *Those who are appointed to Districts and provincial offices should be required to demonstrate their capacity to carry out the job for which they have applied. There should no political appointments nor cadre deployments.<sup>2</sup> People in these posts must be accountable to their employer and be assessed regularly. Furthermore the role of Circuit offices need to be redefined in a way that eases pressure on the District office in terms of managing employment relations closer to institutions/schools.*

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<sup>2</sup> This is not intended to mean that appointees should not have their own political affiliations. But they should not be placed into a position by a political organisation and should not hold office in a political party.

## 6.6 Recommendation for developing a common vision for education

Since the abolition of the apartheid-based ideology of 'Christian National Education', no philosophy or overall vision for the post 1994 Departments of Basic and Higher Education and Training has developed. Various important strands of thought underpinned the education struggle from the 1980s onwards, including People's Education for People's Power, Paulo Freire's *Pedagogy of the Oppressed* and numbers of others. We have at present our Constitution, the Bill of Rights and crucial documents such as the Freedom Charter, but these admirable declarations do not provide a general and comprehensive vision of what education seeks to achieve in this country.

The vision which an overall educational philosophy expresses should be the foundation of the education of teachers, the mission statements of schools and give coherence to the kind of education which should characterise this country. The task of developing such a vision or philosophy for education should be co-ordinated and funded by the DBE and the DHET with the participation of all teacher education institutions as well as a wide range of stakeholders including the Unions.

**RECOMMENDATION 14:** *That the DBE and the DHET, with universities and other stakeholders, including the unions, lead discussion aimed at developing a broad-based philosophy of education, consistent with our history and Constitution, which will underpin the education and training of educators and shape the practice of education in schools throughout South Africa.*

## 6.7 Role of South African Council of Educators (SACE)

SACE plays a crucial role in the regulation of the teaching profession. However its close links with and allegiance to a single Teacher Union, SADTU, has raised questions about its independence, even though the composition of its Council is in accordance with current structural agreements. The MTT believes that SACE can enhance teacher professionalization by reaffirming its leadership as the custodian of the teaching profession and give effect to its regulatory role. It is therefore recommended:

**RECOMMENDATION 15:** *That the South African Council of Educators (SACE) be reconceptualised and freed from Union and political domination.*

From its meetings with the SACE, the MTT was led to believe that the SACE investigation would yield hard and fast instances of malpractice in Umlazi, KZN and in Mpumalanga. Inexplicably, SACE has produced nothing of use for the Task Team other than an incomplete synopsis of some of the cases investigated. Since the Task Team has not been shown the final SACE Report, we suggest strongly that the Minister requires SACE to provide copies of the narrative Report to her once completed. It is therefore recommended:

**RECOMMENDATION 16:** *That SACE releases to the Minister its full Report on the buying and selling of posts when completed.*